

ILLINOIS COMMERCE COMMISSION

DOCKET NO. 00-0393

SURREBUTTAL TESTIMONY OF

TERRY L. MURRAY

I. INTRODUCTION AND SUMMARY

1. Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Terry L. Murray. I am President of the consulting firm Murray & Cratty, LLC. My business address is 227 Palm Drive, Piedmont, CA 94610.

2. Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes, I filed direct testimony on September 1, 2000, on behalf of Covad Communications Company ("Covad") and Rhythms Links Inc. ("Rhythms") and rebuttal testimony on September 20, 2000, on behalf of Rhythms.¹ My curriculum vitae provided as Attachment TLM-1 to my direct testimony presented my qualifications and experience as they relate to the issues in this proceeding.

3. Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. My surrebuttal testimony responds to the rebuttal testimonies of Ameritech Illinois ("Ameritech-IL") witnesses Dr. Carnall, Mr. Smallwood, Mr. O'Brien,

¹ I am informed by counsel for Covad that Covad has entered into a regional settlement with Ameritech-IL's parent corporation, SBC Communications, which disposes of Covad's claims regarding particular rates, terms and conditions for line sharing over copper loops. Thus, Covad does not join in this testimony to the extent that it discusses line sharing prices and other terms and conditions for copper loops. Covad does join the testimony to the extent it deals with the prices and other terms and conditions for line sharing over loops constructed at least partially of fiber optic cable and digital loop carrier. Similarly, Covad's settlement with SBC does not affect its positions on the proper prices for loop conditioning.

1 Ms. Schlackman and Mr. Lube. I also comment on the rebuttal testimonies of
2 Commission staff witnesses Mr. Koch and Mr. Clausen.

3 **4. Q. PLEASE SUMMARIZE YOUR SURREBUTTAL TESTIMONY.**

4 A. In the remainder of my surrebuttal testimony, I explain the basis for the following
5 conclusions:

- 6 • Ameritech-IL witnesses Dr. Carnall and Mr. O'Brien are incorrect in
7 arguing that the Commission should reverse its decision to set a \$0 price
8 for the High Frequency Portion of the Loop ("HFPL"). A zero price for
9 the HFPL properly recognizes that Ameritech-IL recovers from its
10 underlying retail local exchange service the full revenues that this
11 Commission has deemed to be just and reasonable, taking into account the
12 cost to Ameritech-IL of providing the loop.
- 13 • Even if Ameritech-IL does not currently recover all of its forward-looking
14 loop costs through local exchange prices, the Commission should not
15 attempt to subsidize POTS service by setting a positive price for the
16 HFPL. Such a decision would violate the pricing rules that the Federal
17 Communications Commission ("FCC") has established for unbundled
18 network elements.
- 19 • The Commission should also disregard the arguments that Dr. Carnall and
20 Mr. O'Brien have premised on the notion that the HFPL is provided in a
21 competitive market. The HFPL is an unbundled network element that, by
22 its very definition, is available only from Ameritech-IL.

- 1 • Moreover, because providing access to line-sharing arrangements does not
2 cause Ameritech-IL to incur any incremental loop cost, a zero price for the
3 HFPL is fair to all competitors and sends the right price signal for
4 investment in alternative technologies.
- 5 • Ameritech-IL witnesses Mr. Smallwood and Ms. Schlackman are also
6 incorrect in arguing that the Commission should adopt Ameritech-IL's
7 proposed prices for splitters and splitter-related cross-connects.
8 Ameritech-IL's proposed prices do not reflect the cost savings that the
9 company could achieve if it chose to place splitters at or near the Main
10 Distributing Frame ("MDF"). Mr. Riolo's accompanying surrebuttal
11 testimony explains why Ms. Schlackman's claims concerning the alleged
12 inefficiency or impossibility of splitter placement at or near the MDF are
13 false.
- 14 • Mr. Smallwood also mistakenly characterizes the splitter price that I have
15 proposed as being based on "flawed" costs. To the contrary, I have
16 demonstrated that each of the differences between Ameritech-IL's cost
17 analysis and my own properly reflects forward-looking costing principles.
18 Ameritech-IL's proposed prices, in contrast, rely on installation and
19 shared cost factors that have little or no applicability to the costs that
20 Ameritech incurs to purchase and install splitters.
- 21 • The positions that Ms. Schlackman and Mr. Smallwood have put forward
22 concerning the cost of "conditioning" loops to remove DSL inhibitors
23 such as load coils and excessive bridged tap are inconsistent with forward-

1 looking economic cost principles. In particular, both witnesses continue to
2 advocate an improper “mix and match” approach that bases recurring costs
3 and charges on forward-looking network design assumptions, but
4 establishes nonrecurring costs and charges that reflect Ameritech-IL’s
5 current (or, in many cases, historical) plant design. This approach
6 produces costs that cannot satisfy the FCC’s pricing rules for nonrecurring
7 costs.

8 • The network design assumptions and practices that Ms. Schlackman and
9 Mr. Smallwood advocate in their rebuttal testimony are inconsistent with
10 both the assumptions in Ameritech-IL’s recurring loop cost studies and
11 internal documents describing the company’s methods. In his
12 concurrently filed testimony, Mr. Riolo provides more detail concerning
13 the problems with Ameritech-IL’s network design and outside plant
14 maintenance assumptions.

15 • The Commission should give no weight to Mr. Lube’s arguments
16 concerning DSL over fiber. In many instances, the positions that Mr.
17 Lube takes conflict directly with the commitments that its parent, SBC
18 Communications Inc. (“SBC”) made to the FCC in seeking a waiver from
19 certain merger conditions that affect the ownership of components of
20 SBC’s Project Pronto network architecture. In other instances, Mr. Lube’s
21 positions rely on technical aspects of Ameritech-IL’s deployment of
22 Project Pronto that have no significance for the determination of pro-
23 competitive, nondiscriminatory policies to allow competitors access to

1 Ameritech-IL's new network architecture. Mr. Riolo addresses this issue
2 further in his surrebuttal testimony.

- 3 • Similarly, the Commission should give no weight to the "new evidence"
4 that Mr. Smallwood supplies concerning Ameritech-IL's costs for a
5 Telcordia contract to modify the company's Operations Support Systems
6 ("OSS"), allegedly to support line sharing, or to the information that he
7 provides concerning the source of Ameritech-IL's DSL demand forecast.
8 There simply is not enough detail in the information that Mr. Smallwood
9 provides to draw any conclusions.

- 10 • The Commission should, however, take notice of an Ameritech data
11 response in a related Ohio proceeding. That response constitutes
12 Ameritech's admission that the company would have incurred the costs for
13 the Telcordia OSS upgrade on behalf of its own advanced services
14 affiliate, even if Ameritech never provided line sharing to unaffiliated
15 competitors. Thus, the cost in question is actually a merger-related cost,
16 not a line-sharing cost.

17 **5. Q. DOES YOUR TESTIMONY ADDRESS AMERITECH-IL'S CLAIMS**
18 **CONCERNING THE MANNER IN WHICH THE EIGHTH CIRCUIT**
19 **OPINION² SHOULD INFORM THE COSTING AND PRICING**
20 **DECISIONS IN THIS DOCKET?**

21 A. No, it does not. I am informed by counsel that the Eighth Circuit's decision to
22 vacate one portion of the FCC's rules, namely, 47 C.F.R. §51.505(b)(1), has been

1 stayed pending appeal and that all of the FCC's pricing rules for unbundled
2 network elements remain in effect at this time. Thus, I have not responded to
3 arguments concerning the Eighth Circuit Opinion because that Opinion has no
4 immediate relevance to this proceeding.

5 **II. CONTRARY TO THE CLAIMS OF DR. CARNALL AND MR. O'BRIEN,**
6 **THERE IS NO SOUND BASIS FOR ADOPTION OF A NON-ZERO PRICE**
7 **FOR THE HIGH-FREQUENCY PORTION OF THE LOOP ("HFPL")**
8 **ELEMENT.**

9 **A. As Both This Commission and the FCC Have Correctly Concluded,**
10 **the Pricing of the HFPL Should Take into Account the Revenues that**
11 **Ameritech-IL Receives for the Basic Exchange Service Provided over**
12 **the Same Loop.**

13 **6. Q. AMERITECH-IL WITNESSES MR. O'BRIEN AND DR. CARNALL**
14 **ARGUE THAT THE COMMISSION SHOULD NOT CONSIDER LOOP**
15 **COST RECOVERY THROUGH RETAIL PRICES THAT ARE NOT AT**
16 **ISSUE IN THIS PROCEEDING. DO YOU AGREE?**

17 **A.** No. Failure to consider loop cost recovery through retail prices would ignore the
18 unique circumstances under which the HFPL is offered. Unlike all other loop-
19 related unbundled network elements, the HFPL does not give the purchasing
20 competitor exclusive rights to the capacity of the loop. Instead, Ameritech-IL
21 retains the right to provide basic exchange service over the same loop; in fact, if
22 the end-user customer ceases to subscribe to Ameritech-IL's retail basic exchange
23 service, the competitor can no longer provide DSL-based services using the HFPL
24 element. If the Commission established a price for the HFPL element without

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² Iowa Utilities Board v. F.C.C., No. 96-3321, (8th Cir. 2000).

1 taking into account Ameritech-IL's recovery of loop costs through revenues from
2 the underlying basic exchange service, Ameritech-IL would have an opportunity
3 to recover more than 100% of its loop costs.

4 **7. Q. DO MR. O'BRIEN AND DR. CARNALL MAINTAIN A CONSISTENT**
5 **POSITION WITH RESPECT TO THE RELEVANCE OF LOOP COST**
6 **RECOVERY THROUGH RETAIL PRICES?**

7 A. No. Both witnesses invoke the alleged need for subsidy of Ameritech-IL's retail
8 basic exchange services as support for their proposal to price the HFPL at 50% of
9 the price of a stand-alone unbundled loop. The subsidy allegation, of course, rests
10 on the unproven premise that the retail prices this Commission has approved are
11 insufficient to allow Ameritech-IL an opportunity to recover its reasonably
12 incurred costs for local exchange service. Thus, Ameritech-IL seems to find retail
13 prices highly relevant to the pricing of the HFPL. Its witnesses simply disagree
14 with the premise that retail prices fully compensate Ameritech-IL for its forward-
15 looking loop costs.

16 **8. Q. HAS AMERITECH-IL PRESENTED ANY CONVINCING EVIDENCE TO**
17 **ESTABLISH THE NEED FOR A SUBSIDY OF ITS RETAIL LOCAL**
18 **EXCHANGE PRICES?**

19 A. No. This premise seems to rest on Dr. Carnall's argument that circumstances
20 have changed since the Commission last reviewed the relationship between
21 Ameritech-IL's costs and its retail local exchange prices. Dr. Carnall hints darkly

1 that “[g]iven these dramatic changes, the **certainty** that Ameritech Illinois will be
2 able to fully recover its loop costs is clearly in **doubt**.”³

3 Although I agree that circumstances have changed, Dr. Carnall’s doubt is
4 no basis for overturning the presumption that the Commission-approved prices for
5 retail local exchange service are just, reasonable and fully compensatory. The
6 advance of technology and other cost savings are changes that could render
7 existing retail prices *higher* than the level necessary to recover Ameritech-IL’s
8 efficient, forward-looking costs.

9 If Ameritech-IL has proof that its current retail prices do not allow the
10 company a fair opportunity to recover its reasonably incurred costs, the company
11 could and should have brought that evidence before the Commission in a general
12 investigation of retail local exchange prices. Ameritech-IL apparently has not
13 done so. Instead, it has chosen to rely on hints and innuendo concerning the need
14 for retail price subsidies to attempt to justify a nonzero price for its competitors’
15 use of the high-bandwidth portion of the loop.

16 **9. Q. DR. CARNALL IMPLIES THAT A ZERO PRICE FOR THE HFPL IS**
17 **UNFAIR BECAUSE DATA COMPETITORS USING THE HFPL WOULD**
18 **SOMEHOW AVOID PAYING THEIR FAIR SHARE OF THE SUBSIDY**
19 **FOR UNIVERSAL SERVICE. IS THIS CONCERN AN APPROPRIATE**
20 **BASIS FOR THE COMMISSION TO ADOPT AMERITECH-IL’S**
21 **PROPOSED PRICE?**

³ Carnall Rebuttal, at 6.

1 A. No. The HFPL is an unbundled network element; therefore, the price for the
2 HFPL must comply with the FCC's pricing rules. The FCC has expressly
3 forbidden the inclusion of subsidies in the prices for unbundled network
4 elements.⁴ Thus, even if Ameritech-IL were correct that retail prices do not fully
5 compensate the company for its reasonably incurred costs of providing basic
6 exchange service, the FCC's pricing rules would preclude use of the HFPL as a
7 means of making up the revenue shortfall.⁵

8 **10. Q. ARE THERE ANY REASONS, OTHER THAN THE FCC'S PRICING**
9 **RULES, WHY THE COMMISSION SHOULD NOT USE REVENUES**
10 **FROM THE HFPL TO SUBSIDIZE RETAIL LOCAL EXCHANGE**
11 **SERVICE?**

12 A. Yes. Any attempt to use revenues from the HFPL to subsidize retail local
13 exchange service would likely force some residential and small business
14 customers (those who choose to subscribe to a competitor's line-shared DSL-
15 based service) to subsidize other consumers (those who choose not to purchase
16 line-shared DSL).

17 Assume for the sake of argument that retail local exchange prices
18 compensate Ameritech-IL for 85% of the forward-looking economic cost of
19 providing the loop. Both groups of consumers would pay the same prices for
20 retail local exchange service and provide Ameritech-IL with the same percentage

⁴ 47 C.F.R. § 51.505(d)(4).

⁵ Dr. Carnall cites the Texas testimony of AT&T witness Steven Turner in support of his position concerning the alleged unfairness of pricing the HFPL at zero. To the extent that Dr. Carnall has correctly characterized Mr. Turner's testimony, the Commission should give no weight to that testimony because the implicit remedy would

1 coverage, on average, of the forward-looking economic cost of the loop that
2 Ameritech-IL provides as part of that service. Now assume that DSL competitors
3 must pay 50% of the cost of the local loop when they obtain use of the same loop
4 (the HFPL element) to provide line-shared DSL service. The DSL competitors
5 would, of course, pass this cost of business along to their customers. Thus, in this
6 simplified example, customers that buy both POTS and DSL service over the
7 same line would in effect compensate Ameritech-IL for 135% of the cost of that
8 loop (85% through local exchange prices and 50% through DSL prices), whereas
9 customers that buy only POTS service would pay only 85% of the cost of their
10 loops. Yet both customer groups would cause Ameritech-IL to incur the same
11 loop cost because, as Dr. Carnall has previously conceded, Ameritech-IL does not
12 incur any incremental loop cost to provide the HFPL. Thus, the customers
13 subscribing to both voice and data service would be subsidizing the customers
14 who subscribe only to voice service. Such an outcome is neither fair to
15 consumers nor conducive to economic efficiency.

16 **B. A Zero Price for the HFPL Is Consistent with Both the Pricing**
17 **Requirements of the Telecommunications Act of 1996 (“Act”) and the**
18 **Pricing Rules That the FCC Has Adopted to Implement the Act.**

19 **11. Q. MR. O’BRIEN BELIEVES THAT YOUR PROPOSAL TO CHARGE A**
20 **ZERO PRICE FOR THE HFPL IS INCONSISTENT WITH SECTION**
21 **252(D) OF THE ACT. DO YOU AGREE?**

Continued...

be to include a subsidy for universal service in the price of the HFPL—a recommendation that unambiguously violates the FCC’s pricing rules.

1 A. Absolutely not. To the contrary, I have demonstrated in my direct and rebuttal
2 testimonies that the only price for the HFPL that is consistent with both the Act
3 and the FCC's regulations implementing the Act is zero. A positive price would
4 be both discriminatory and non-cost-based.

5 The only costs that provision of the HFPL element causes Ameritech-IL to
6 incur are the costs of making and maintaining the connection within the central
7 office that affords access to the high-bandwidth portion of a loop. I have
8 proposed prices to recover those costs.

9 As I have explained, and no party contests, allowing use of the high-
10 bandwidth portion of the loop does not cause Ameritech-IL to incur any
11 incremental loop costs. Ameritech-IL's attempt to obtain recovery of costs other
12 than the cost of making and maintaining the central office connection thus
13 conflicts with the requirement of Section 252(d) that prices be cost-based and
14 non-discriminatory.

15 **12. Q. MR. O'BRIEN ALSO ALLEGES THAT A PRICE OF ZERO FOR THE**
16 **HFPL WOULD VIOLATE SECTION 254(K) OF THE ACT. DO YOU**
17 **AGREE?**

18 A. No. The section to which Mr. O'Brien refers prohibits the subsidy of competitive
19 services. For the first sentence of this section to be applicable, the HFPL would
20 have to be a competitive service, which it most certainly is not. The FCC has
21 designated the HFPL as an unbundled network element, finding that the HFPL
22 meets the "impair" standard of the Act. If Ameritech-IL had any evidence for Mr.

1 O'Brien's surprising statement that "HFPL is a competitive service,"⁶ that
2 evidence would surely establish that the HFPL fails to satisfy the "impair"⁷
3 standard and Ameritech-IL would not be required to unbundle access to the
4 HFPL.

5 Second, the cost of providing the HFPL element is the cost of establishing
6 and maintaining the central office connection that affords access to the high-
7 bandwidth portion of a loop. The prices that I have proposed to recover these
8 costs include the Commission's percentage allocation of common cost applied to
9 the TELRIC of providing the element. There are no directly attributable loop
10 costs for the HFPL element. Thus, the application of the Commission's approved
11 common cost percentage to the zero loop costs caused by line sharing results in
12 zero common cost allocation beyond the common cost allocation associated with
13 the cost of establishing and maintaining the central office connection, which is the
14 only cost that Ameritech-IL incurs to provide the HFPL element.

15 **13. Q. DR. CARNALL CONTINUES TO ESPOUSE A THEORY THAT THE**
16 **HFPL IS ONE OF TWO DEDICATED CONNECTIONS TO THE**
17 **NETWORK, EACH OF WHICH "CAUSES" AMERITECH-IL TO INCUR**
18 **THE COST OF A LOOP. IS DR. CARNALL'S TESTIMONY**
19 **CONSISTENT WITH SBC'S TESTIMONY IN OTHER JURISDICTIONS?**

⁶ O'Brien Rebuttal at 5.

⁷ The FCC found that "lack of access to high frequency spectrum of a local loop impairs a competitive carrier's ability to offer certain forms of xDSL-based service." *Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98*, FCC 99-355, adopted November 18, 1999, released December 9, 1999.

1 A. No. Dr. Carnall's testimony is at odds with SBC's prior position at the FCC on
2 line-sharing costs for its own retail DSL service (which I quoted in my direct
3 testimony), and with Ameritech's prior positions before state commissions. One
4 example of the conflict between Dr. Carnall's testimony and Ameritech's earlier
5 position appears in the Michigan Public Service Commission's order of
6 November 16, 1999, which provides the following characterization of Ameritech
7 Michigan's position on loop cost:

8 Ameritech Michigan says that the cost of the loop is a fixed capital
9 cost that results from a customer having access to the network and
10 a variety of services. It says that the cost should be assigned to the
11 services that include access to the network—basic local exchange
12 service or an unbundled loop. Further, it says that fixed costs
13 should be recovered through fixed charges, not usage-sensitive
14 charges.⁸

15 By the test applied by Ameritech Michigan in that case—assign loop cost
16 to services that include access to the network—the HFPL should clearly not be
17 assigned any loop cost. This result is also consistent with the incumbents'
18 positions before the FCC regarding allocation of loop cost to their retail DSL
19 services.

20 As I have explained in my direct testimony, the HFPL is not a means for a
21 consumer to gain access to the network. The HFPL is not available on a stand-
22 alone basis, and so cannot provide access to anything. Indeed, the HFPL is only
23 available to competitors serving customers who have already subscribed to a
24 service that includes access to the network (to use Ameritech Michigan's phrase):

⁸ Before the Michigan Public Service Commission, In the matter, on the Commission's own motion, to consider the total service long run incremental costs for all access, toll, and local exchange services provided by Ameritech Michigan, Case No. U-11831, adopted November 16, 1999, at 22.

1 basic local exchange service. Before the FCC required Ameritech-IL to offer the
2 HFPL, competitors could only offer DSL-based services similar to those provided
3 by means of the HFPL by purchasing the other service that Ameritech Michigan
4 mentioned as affording access to the network: an unbundled loop. Thus,
5 Ameritech Michigan stated a consistent position: consumers and competing
6 carriers cause the cost of the loop by ordering a service that requires Ameritech to
7 provide a loop, which is either basic local exchange service or an unbundled loop.
8 In contrast, ordering a line-sharing arrangement can never require Ameritech-IL
9 to provide a loop. In summary, Dr. Carnall's conclusion that dedicated
10 connections on a loop "cause" loop costs is not only mistaken, it conflicts with
11 Ameritech's prior positions.

12 **14. Q. DR. CARNALL'S REBUTTAL TESTIMONY ALSO CONTINUES TO**
13 **MAINTAIN THAT IT IS PROPER TO REGARD ANALOG VOICE**
14 **SERVICE AND LINE-SHARED ACCESS TO THE HIGH-BANDWIDTH**
15 **PORTION OF THE LOOP AS JOINT PRODUCTS. DO YOU AGREE?**

16 A. No. As I explained in my direct testimony, it would only be correct to regard
17 these two arrangements as joint products if they were equally available on a
18 stand-alone basis. Further, if line-shared access and analog voice services were
19 truly joint products, the task before the Commission would be to arrive at an
20 allocation of loop cost that summed to 100% of the forward-looking economic
21 cost of a loop. Ameritech-IL has not proposed a new allocation of costs between
22 two products, which would imply one price increase and a counterbalancing price

1 decrease. Ameritech-IL has merely proposed a discriminatory, anticompetitive
2 price with no cost justification, and used the word “allocation” as an excuse.

3 Another difficulty with treating analog voice service and access to line-
4 sharing arrangements as joint products arises from the fact that line sharing on a
5 particular loop is available only to the specific customer whose analog voice
6 service is provided over that loop. This peculiarity of the two products would
7 foreclose any attempt to apply the received wisdom regarding competitive pricing
8 of joint products, even if the two products were equally available on a stand-alone
9 basis and could be regarded as joint products for the purpose of cost analysis.
10 That is, the received wisdom regarding competitive pricing of joint products is
11 extrapolated from examples such as mutton and wool, cotton and cottonseed oil,
12 or chicken breasts and chicken wings. In each of these cases, it is possible to have
13 independent markets for each of the two products; once they are produced, mutton
14 and wool can be sold to different consumers or transported to different geographic
15 markets. The restrictions that are inherent in the legal and technical
16 circumstances under which line sharing and analog voice service are provided do
17 not apply to markets for classic joint products such as mutton and wool.

18 **15. Q. IF IT IS NOT PROPER TO REGARD ACCESS TO LINE-SHARING**
19 **ARRANGEMENTS AND ANALOG VOICE SERVICE AS JOINT**
20 **PRODUCTS, WHAT IS THE RELATIONSHIP BETWEEN THEM?**

21 A. It is most accurate to regard line sharing as an enhancement to analog voice
22 service that causes no loop-related costs. Line sharing is an enhancement to

1 analog voice service because analog voice service must be in place for line
2 sharing to be available—line sharing cannot be ordered by itself.

3 Dr. Carnall has admitted that allowing a line-sharing arrangement causes
4 no incremental loop costs. For a subscriber to benefit from a line-sharing
5 arrangement, Ameritech-IL will have to engage in certain activities to cross-
6 connect the subscriber's loop to establish the line-sharing arrangement and to
7 accommodate the subscriber's chosen DSL provider's collocation needs. These
8 are routine activities with costs entirely unrelated to the cost of building and
9 maintaining loops, and the costs of similar activities are routinely recovered
10 through prices other than the HFPL line charge. Thus, Ameritech-IL's proposed
11 HFPL element charge is not a price that is designed to recover a cost—it is a
12 charge to induce Ameritech-IL's acquiescence in the line-sharing arrangement.
13 As such, it can only be rationalized as compensation for the profit lost to
14 Ameritech-IL when subscribers are given a choice of using a different DSL
15 provider.

16 **16. Q. WHAT IMPLICATIONS FLOW FROM YOUR CONCLUSION THAT A**
17 **LINE-SHARING ARRANGEMENT IS PROPERLY REGARDED AS AN**
18 **ENHANCEMENT OF ANALOG VOICE SERVICE?**

19 A. Recognizing this fact clarifies the considerations that would enter into competitive
20 pricing of a line-sharing arrangement. If there is competition in the provision of
21 any product, no competing provider will be able to refuse to allow a desirable
22 enhancement of the product or to extract a payment in excess of cost for its
23 acquiescence in the enhancement. It is evidence of the lack of competition for

1 analog voice services that Ameritech-IL first refused to allow line sharing, and
2 now, after being ordered to allow the arrangement, seeks to extract a payment for
3 allowing a use of the loop that causes no cost.

4 **17. Q. YOUR ANALYSIS OF THE RELATIONSHIP BETWEEN ANALOG**
5 **VOICE SERVICE AND LINE-SHARING ARRANGEMENTS RELIES ON**
6 **THE FCC'S CURRENT RULES REGARDING THE CIRCUMSTANCES**
7 **UNDER WHICH AN INCUMBENT LOCAL EXCHANGE COMPANY**
8 **MUST ALLOW LINE-SHARING ARRANGEMENTS. IS THIS A**
9 **LIMITATION OF YOUR ANALYSIS?**

10 A. No. Line-sharing arrangements only exist under compulsion of those rules, and,
11 although my recommendation might be different if the rules were different, I see
12 no other plausible structure for this aspect of those rules. In particular, my
13 analysis relies on the FCC's determination of the circumstances under which
14 incumbent local exchange companies must allow subscribers to purchase DSL-
15 based services from third party providers using line-sharing arrangements. The
16 FCC found that incumbent local exchange companies must allow line sharing
17 only when the subscriber is an active customer of analog voice service, and the
18 line-sharing arrangement ends if the subscriber should discontinue analog voice
19 service.⁹ This determination makes it very clear that the issue before the
20 Commission does not concern two dedicated connections that are equally
21 available on a stand-alone basis and thus ought to be treated symmetrically.

⁹ *Line Sharing Order*, at ¶ 72.

1 Very much contrary to this proposed treatment, the FCC explicitly noted
2 that line sharing is not available to provide DSL-based service to a person who
3 does not subscribe to analog voice service, and that a different unbundled network
4 element, the loop element, has already been defined to fulfill that purpose.¹⁰
5 Because the stand-alone loop element is already available to serve customers not
6 subscribing to analog voice service from the incumbent, it is implausible to
7 suggest that line sharing could be defined as anything but an adjunct, or
8 enhancement, to analog voice service.¹¹

9 **18. Q. DR. CARNALL CITES THE TESTIMONY OF A COVAD WITNESS IN**
10 **MINNESOTA, DR. RANDY BEARD, TO SUPPORT HIS POINT THAT**
11 **THE HFPL AND THE VOICE FREQUENCY PORTION OF THE LOOP**
12 **ARE JOINT PRODUCTS. HAS DR. CARNALL ACCURATELY**
13 **PORTRAYED DR. BEARD’S TESTIMONY?**

14 A. I do not believe so. Dr. Carnall failed to note an essential fact concerning Dr.
15 Beard’s testimony: despite the statement that Dr. Beard made concerning joint
16 costs, he has recommended that the HFPL be priced at zero. I agree with Dr.
17 Beard that, even if one considers the HFPL and the voice frequency of the loop to
18 be joint products, the correct price for the HFPL is still zero.

19 **19. Q. AT PAGE 9 OF HIS REBUTTAL TESTIMONY, DR. CARNALL STATES**
20 **AS FOLLOWS: “IT DOES NOT TAKE COMPLICATED ANALYSIS TO**

¹⁰ *Id.* at 72 & 73.

¹¹ Of course, line splitting could provide DSL competitors with a way to offer the equivalent of line sharing to end-user customers that obtain voice service from a competitive provider. The appropriate price for the high-bandwidth portion of a line-split loop would also be zero because the voice provider would cause Ameritech-IL

1 **ESTABLISH THE OBVIOUS ³/₄ A COMPETITIVE FIRM WOULD NOT**
2 **GIVE AWAY THE HIGH-FREQUENCY SPECTRUM ON ITS LOOPS,**
3 **ESPECIALLY TO A POTENTIAL COMPETITOR, WITHOUT**
4 **EXPECTING SOMETHING IN RETURN.” DOES THIS STATEMENT**
5 **PROVIDE A COST BASIS FOR AMERITECH-IL’S PROPOSED HFPL**
6 **CHARGE?**

7 A. This statement, read together with the treatment in his direct testimony, makes it
8 clear that Dr. Carnall believes that Ameritech-IL should be compensated for the
9 profit it would have received from the sale of DSL-based services, but for the fact
10 of the customer choosing to purchase DSL-based service from a competitor.

11 On page 15 of his direct testimony, Dr. Carnall refers to the high-
12 frequency portion of the loop as an asset: “In the case of the HFPL UNE, leasing
13 the UNE to a competitor also removes the potential for Ameritech Illinois to use
14 the high-frequency portion of the loop. In a competitive market, it is highly
15 unlikely that any rational provider would give up its ability to provide service
16 using the high-frequency spectrum on its loops without requiring compensation
17 from the potential competitor that will use the spectrum.” In economics, an asset
18 is anything that has the capacity to generate future net revenue. Assets are
19 typically valued at the present value of the future net revenue that control of the
20 asset can create.

Continued...

to incur the cost of the loop, and the provision of DSL-based services over that loop would cause no incremental loop cost to either Ameritech-IL or the purchaser of the unbundled loop.

1 Because line-shared access to the loop creates no loop cost, Dr. Carnall
2 focuses on the asset value of that access, and in so doing, proposes a charge to
3 replace the profit that Ameritech-IL could have generated with that asset, were it
4 not for the requirement to allow competitive access. This loss of profit
5 occasioned by allowing competitive access is a private “opportunity cost” to a
6 monopolist, but not a cost to society as a whole. The essence of this opportunity
7 cost argument is that providing access to a competitor will cause Ameritech-IL a
8 loss of profit from end users, and this loss of profit amounts to an “opportunity
9 cost.” The FCC, however, after extensive comment and analysis, specifically
10 rejected “opportunity cost” pricing for unbundled network elements at paragraphs
11 708 and 709 of the *Local Competition First Report and Order*.

12 In addition, Ameritech-IL’s proposal would have the effect of preserving
13 the margin that Ameritech-IL could enjoy as the exclusive provider of DSL-based
14 services over line-sharing arrangements—even when the end user chooses to take
15 service from another DSL-based provider. There is no cost basis for the charge,
16 except the private “opportunity cost” to Ameritech-IL that arises when a customer
17 chooses a competitor instead of Ameritech-IL. This “opportunity cost” notion is
18 the basis for Dr. Carnall’s contention that competitive markets would place a
19 positive price on line-sharing arrangements,¹² and it is really the only support
20 offered for Ameritech’s proposed line-sharing charge.

¹² I discuss pricing in the counterfactual situation of a competitive market below. Dr. Carnall’s analysis uses the word “competitive,” but his conclusion does not follow if the market is actually competitive. Apparently, Dr. Carnall confuses “competitive” and “unregulated.”

1 **20. Q. DR. CARNALL PROTESTS THAT A COMPETITIVE MARKET WOULD**
2 **PLACE A POSITIVE PRICE ON A PRODUCT SUCH AS ACCESS TO**
3 **LINE-SHARING ARRANGEMENTS. DO YOU AGREE?**

4 A. No. I have no doubt that Ameritech-IL would place a positive price on access to
5 line sharing if it were not constrained from doing so by the FCC and this
6 Commission. This fact merely provides evidence that markets for services
7 provided over local loops are not competitive; it proves nothing about what might
8 occur in a competitive market because Ameritech-IL faces nothing resembling the
9 discipline of a competitive market on the vast majority of its loops.

10 Nevertheless, one can ask what the price for a line-sharing arrangement
11 would be if there were a competitive market for analog voice services. Contrary
12 to Dr. Carnall's claim, if such competitive markets were in place, they would
13 cause the price of analog voice service to cover the cost of the loop and the price
14 of line-sharing arrangements to include none of the costs of the loop.

15 In competitive markets, no firm could survive in long-run equilibrium
16 offering analog voice service and line sharing at prices that recover more or less
17 than the total cost of the loop;¹³ at lower prices the firm could not attract capital,
18 and at higher prices, the resulting abnormal profit would attract new entry,
19 increase supply and reduce price. This is the fundamental rule that competitive
20 markets do not abide a return greater or less than a normal economic profit, in the
21 long run.

¹³ For the sake of exposition, this discussion neglects costs other than the loop that may be incremental to either analog voice service or data provided over a line-sharing arrangement. The firm would need to recover these costs in a cost-causative manner.

Moreover, if a firm sought to recover its loop cost from a price for voice service that failed to cover the entire cost of the loop and a price for line-sharing arrangements that recovered the shortfall of loop costs, it would encounter the following difficulty. This firm would be most attractive to customers who want analog voice service, but do not want data service through a line-sharing arrangement.¹⁴ Thus, the firm seeking to recover less than the full cost of the loop from analog voice services would fail to recover its costs, would earn less than a normal profit and would not be able to attract capital. The only competitive market outcome in the long run would be for each firm to recover its loop costs from its analog voice customers, or unbundled loop charges, and make line-sharing arrangements available without trying to assess loop costs where none have been caused.

21. Q. ARE YOU SUGGESTING THAT UNREGULATED TRADE IN A “PRODUCTIVE ASSETS THAT ARE IN LIMITED SUPPLY”¹⁵ IS LIKELY TO RESULT IN A PRICE OF ZERO?

A. No, it is my testimony that Dr. Carnall’s characterization of the issue does great violence to the facts. First, the assumption of “limited supply” is a peculiar one in this context, and is inconsistent with “competitive” supply. If the question is what would happen in a competitive market, the only limitation on supply is cost, and the cost of allowing line-shared access to the high-bandwidth portion of the loop

¹⁴ Note that the option of taking line-shared DSL-based service without analog voice service on the loop is not a possibility.

¹⁵ Carnall Rebuttal at 18.

1 is zero.¹⁶ That is to say, every time a loop is installed to provide analog voice
2 service, the high-bandwidth portion of that loop is available, without limitation
3 and at zero cost, to be used in a line-sharing arrangement. If the market for
4 analog voice service were competitive, no provider would be able to impose
5 artificial limitations on line-shared access to the high-bandwidth portion of the
6 loop; to do so would make that provider's analog voice service less attractive than
7 competitors' offerings. Thus, although Dr. Carnall refers to a competitive market,
8 he fails to impose the most rudimentary constraints of competition and confuses
9 the outcomes to be expected from a competitive market with the outcome from a
10 monopoly without the constraint of regulation.

11 **C. A Zero Price for the HFPL Does Not Unfairly Disadvantage Other**
12 **Competitors.**

13 **22. Q. DR. CARNALL REFERS TO THE COST OF SPECTRUM TO WIRELESS**
14 **PROVIDERS.¹⁷ IS IT APPROPRIATE FOR PROVIDERS USING DSL**
15 **TECHNOLOGIES TO PAY A PRICE OF ZERO FOR THE HIGH-**
16 **FREQUENCY SPECTRUM ON A LOOP WHILE WIRELESS**
17 **BROADBAND PROVIDERS MUST PAY FOR LICENSES WON IN**
18 **SPECTRUM AUCTIONS?**

19 A. Yes. It is entirely appropriate for alternative technologies to compete on the basis
20 of their true total costs. The cost of the high-frequency spectrum in a line-sharing
21 arrangement is zero, and the cost of electromagnetic spectrum used by a wireless

¹⁶ Ameritech-IL's private opportunity cost — the profit lost to Ameritech-IL by allowing subscribers to choose a competing DSL provider — is irrelevant to this discussion.

¹⁷ Carnall Rebuttal, at 18 & 19.

1 broadband provider approximates the price of the license determined in the
2 spectrum auction. Any *positive* price for access to a line-sharing arrangement
3 would distort competition between DSL technologies and wireless broadband
4 technologies.

5 Furthermore, as Dr. Carnall observes, loops are dedicated to a single
6 customer.¹⁸ The important implication of this fact is that when the high-
7 frequency spectrum on a loop is put to use, no other potential user of that
8 spectrum is excluded—the entire frequency spectrum on a loop is dedicated to the
9 customer served by that loop. The situation is very different with use of
10 electromagnetic spectrum by a wireless broadband provider. When a portion of
11 electromagnetic spectrum is licensed to a particular provider or dedicated by that
12 provider to serve a particular customer, all other potential users of that spectrum
13 are excluded. This exclusion of other potential users is a cost of an exclusive
14 license for the use of a band of spectrum. The amount of the cost is approximated
15 by the outcome of a spectrum auction¹⁹—this is precisely why the FCC’s
16 spectrum auctions provide an efficient way of licensing spectrum to alternative
17 users.

18 Thus, competition among line-shared DSL and wireless technologies
19 would reach an inefficient outcome if line-sharing arrangements faced any price
20 above zero, or if wireless providers paid anything less than the price determined

¹⁸ Carnall Direct, at 2.

¹⁹ The winning bidder in an auction must make a bid just higher than the value that the next highest bidder places on the spectrum. Because the next highest bidder represents the highest valued use of the spectrum that will be licensed to the winning bidder, the winning bid approximates the cost to society of granting the license—the cost of excluding the highest bidding loser in the auction.

1 by an efficient auction. Likewise, if a DSL provider uses the entire spectrum on a
2 loop, excluding analog voice service from the low-frequency portion of the loop,
3 an efficient outcome of the competitive process depends on the fact that the DSL
4 provider must then pay the full cost of the unbundled loop.

5 **23. Q. DR. CARNALL ALSO OBJECTS THAT A ZERO PRICE FOR THE HFPL**
6 **UNFAIRLY DISADVANTAGES COMPETITORS THAT OBTAIN**
7 **UNBUNDLED LOOPS TO PROVIDE VOICE SERVICES. IS HE**
8 **CORRECT?**

9 A. No. Dr. Carnall suggests that the mandate for Ameritech-IL to price the HFPL at
10 zero effectively makes it impossible for those competitors to charge DSL
11 providers any nonzero price for access to the high-bandwidth portion of the
12 unbundled loops that the voice providers obtain from Ameritech-IL. He is not
13 necessarily correct because the competitor that leases a stand-alone unbundled
14 loop from Ameritech-IL gains monopoly control over that loop facility. If that
15 competitor provides the end user's retail local exchange service, then that
16 competitor is the "monopoly" source of the high-bandwidth portion of the loop
17 for purposes of a line-sharing-like arrangement.²⁰ Thus, even if Dr. Carnall were
18 correct in assuming that a zero price for the HFPL would similarly constrain the
19 purchasers of unbundled loops to offer the high-bandwidth portion of their loops

²⁰ For the same reason, Dr. Carnall is simply wrong in arguing that Ameritech-IL's HFPL offering faces competition from unaffiliated companies that lease unbundled loops from Ameritech-IL. The fact that AT&T, or any other competitive local exchange company, may offer voice service over an Ameritech-IL unbundled loop to 217 Main Street, Anytown, Illinois, does nothing to constrain the price that Ameritech-IL can charge for access to a line-sharing arrangement at 334 Main Street in the same city, much less the price for the HFPL in an entirely different city.

1 at \$0, such a result would be consistent with the public policy objectives that
2 underpin the FCC's *Line Sharing Order*.

3 I doubt, however, that Ameritech-IL's real concern is the preservation of
4 competitive opportunities for voice providers that obtain unbundled loops from
5 Ameritech-IL. If that were the case, Ameritech-IL would be volunteering to offer
6 line splitting, rather than fighting tooth and nail to avoid this pro-competitive
7 option. The Commission should disregard Ameritech-IL's false and self-serving
8 arguments concerning the pricing of the HFPL and instead reaffirm its decision to
9 set the price at \$0.

10 **III. CONTRARY TO THE ASSERTIONS OF MR. SMALLWOOD AND MS.**
11 **SCHLACKMAN, THE PRICES FOR SPLITTERS AND SPLITTER**
12 **PLACEMENT SHOULD REFLECT EFFICIENT PRACTICES,**
13 **REGARDLESS OF THE ACTUAL PRACTICES THAT AMERITECH-IL**
14 **CHOOSES TO EMPLOY.**

15 **24. Q. AT PAGE 2 OF HIS REBUTTAL TESTIMONY, MR. SMALLWOOD**
16 **IDENTIFIES WHAT HE DESCRIBES AS "SEVERAL FLAWS" IN YOUR**
17 **ANALYSIS OF SPLITTER COSTS. DO YOU AGREE WITH MR.**
18 **SMALLWOOD'S CHARACTERIZATION OF THESE ASPECTS OF**
19 **YOUR ANALYSIS AS FLAWS?**

20 **A.** No. Mr. Smallwood merely recites the areas in which my analysis differs from
21 the cost study that he is sponsoring. He seems to believe that any departure from
22 the Ameritech-IL methodology automatically constitutes a "flaw" in my analysis.
23 For the most part, Mr. Smallwood has not even bothered responding to the
24 explanation that I proffered in my direct testimony for my decision to take a
25 different approach from the one in the Ameritech-IL cost study, much less

1 provided any reasoned basis for the Commission to adopt the Ameritech-IL
2 proposal.

3 **25. Q. AMONG THE “FLAWS” THAT MR. SMALLWOOD CITES IS YOUR**
4 **PURPORTED FAILURE TO INCLUDE CERTAIN SPLITTER-RELATED**
5 **COSTS SUCH AS ENGINEERING EXPENSES AND TRANSPORTATION**
6 **CHARGES. DOES YOUR ANALYSIS OMIT ANY RELEVANT**
7 **FORWARD-LOOKING COSTS FOR SPLITTERS?**

8 A. No. Mr. Riolo, a telecommunications engineer whose extensive experience
9 includes hands-on experience with splitter installation, addresses the specific costs
10 that Mr. Smallwood claims that I have omitted and confirms that the cost-based
11 price that I have proposed is sufficient to recover all efficient, forward-looking
12 costs related to splitters. I have, however, deliberately omitted the *inefficient*,
13 *unnecessary* costs reflected in the Ameritech-IL cost study, which include costs
14 associated with Ameritech-IL’s decision to place the splitter in a location other
15 than the Main Distributing Frame (“MDF”) or immediately adjacent location.

16 **26. Q. AT PAGE 3 OF HIS REBUTTAL TESTIMONY, MR. SMALLWOOD**
17 **ALSO ASSERTS THAT AMERITECH-IL’S INSTALLATION FACTOR**
18 **APPROACH “PROVIDES AN ACCURATE ESTIMATE OF THE**
19 **AVERAGE OF THOSE COSTS” ASSOCIATED WITH SPLITTER**
20 **INSTALLATION. IS HIS STATEMENT CORRECT?**

21 A. No. As I have already explained in prior rounds of testimony, it makes no sense
22 to claim that Ameritech-IL’s installation factor approach provides an accurate
23 estimate of “average” installation for splitters when splitters were not part of the

1 pool of equipment that Ameritech-IL considered in developing the factor that it
2 now applies to splitter investment. Mr. Riolo confirms that splitters are easy to
3 engineer and easy to install. Applying an installation factor for digital circuit
4 equipment—a class of equipment that is on average far more complex to install
5 than a splitter—will produce an overstatement of installation costs.

6 My quarrel is not with a factor-based approach *per se*, but with the
7 application of a factor that bears no necessary connection to the costs associated
8 with splitter installation. Neither Mr. Smallwood nor any other Ameritech-IL
9 witness has provide a single shred of analysis to suggest that the installation factor
10 used in the Ameritech-IL cost study is a good predictor of splitter installation
11 costs.

12 **27. Q. PLEASE COMMENT ON MS. SCHLACKMAN'S REBUTTAL**
13 **TESTIMONY CONCERNING SPLITTER PLACEMENT.**

14 A. Ms. Schlackman's rebuttal testimony appears to cover the same basic positions as
15 did the Ameritech-IL direct testimony. As my direct testimony already responded
16 to those positions, I will not repeat myself herein except to note again that any
17 Ameritech-IL "right" to place splitters wherever it wishes and to implement
18 whatever cross connection arrangement it wishes is irrelevant to setting forward-
19 looking costs and prices. If Ameritech-IL chooses to deploy an inefficient
20 arrangement, then it has caused the cost associated with that inefficiency itself.
21 Reasonable regulatory policy would not allow Ameritech-IL to impose inefficient
22 costs on competitors.

1 **28. Q. STAFF WITNESS MR. CLAUSEN TAKES A SLIGHTLY DIFFERENT**
2 **APPROACH FROM MS. SCHLACKMAN, ARGUING THAT SPLITTER**
3 **PLACEMENT AT OR NEAR THE MDF IS NOT THE CORRECT**
4 **PRICING ASSUMPTION BECAUSE SUCH PLACEMENT IS ONLY**
5 **EFFICIENT FROM THE NARROW PERSPECTIVE OF THE DSL**
6 **PROVIDER. DO YOU AGREE WITH MR. CLAUSEN?**

7 A. No. I do agree with Mr. Clausen that the splitter placement assumption for
8 pricing purposes should consider central office efficiency from a global (or “total
9 demand”) perspective, not just the perspective of *either* the DSL provider or
10 Ameritech-IL. But Mr. Clausen is mistaken in assuming that a total demand
11 perspective would mandate splitter placement somewhere other than at or near the
12 MDF, as Mr. Riolo explains in his surrebuttal testimony.

13 **29. Q. AT PAGE 23 OF HER REBUTTAL TESTIMONY, MS. SCHLACKMAN**
14 **PROVIDES CITATIONS TO THE FCC *LINE SHARING ORDER*,**
15 **WHICH SHE CLAIMS CONFIRM HER POSITION CONCERNING**
16 **SPLITTER PLACEMENT. DOES MS. SCHLACKMAN PROVIDE THE**
17 **COMMISSION WITH THE RELEVANT CITATION TO THE *LINE***
18 ***SHARING ORDER*?**

19 A. No. The two passages in the FCC *Line Sharing Order* that Ms. Schlackman
20 references are misleading. Ms. Schlackman points the Commission everywhere
21 except to paragraph 145, wherein the FCC explicitly discussed the splitter
22 placement assumptions that should be assumed for the purpose costing and
23 pricing. Paragraph 145 directly addresses costing and pricing, and supports the

1 assumption that costs should be based on assuming that the incumbent will use an
2 efficient, frame-mounted splitter arrangement instead of placing the splitters
3 wherever the incumbent wishes, which is the standard that Ms. Schlackman
4 advocates.

5 **30. Q. AT PAGES 4 THROUGH 6 OF HIS REBUTTAL TESTIMONY, MR.**
6 **SMALLWOOD TAKES ISSUE WITH YOUR EXCLUSION OF ANY**
7 **SHARED COST MARKUP ON SPLITTER COSTS. PLEASE COMMENT**
8 **ON HIS CLAIM THAT YOUR PROPOSAL IS CONTRARY TO**
9 **COMPETITORS' DESIRE FOR PRICING STABILITY.**

10 A. This claim stands the truth on its head. My pricing proposal for splitters avoids
11 the need for recalculation of the shared cost factor applicable to other unbundled
12 network elements, whereas Ameritech-IL's proposal would require recalculation
13 of the factor to avoid overrecovery of shared costs.

14 I understand that the Commission previously authorized Ameritech-IL to
15 recover certain identified shared costs through a simple percentage markup on the
16 directly attributable cost of unbundled network elements. The percentage markup
17 is calculated so that Ameritech-IL will exactly recover the authorized shared costs
18 if it sells the total quantity of unbundled network elements included in the
19 calculation. The calculation did not include splitter costs because Ameritech-IL
20 did not provide splitters during the period in question. By definition, the addition
21 of a new offering (splitters) should not increase the authorized shared costs.
22 Otherwise, the "shared" costs would actually be costs directly attributable to
23 provision of splitters. Thus, inclusion of a shared cost markup in splitter prices

1 would lead to Ameritech-IL's recovery of more shared costs than the level that
2 the Commission previously authorized. The only way to avoid this overrecovery
3 would be to recalculate the shared cost markup that applies to *all* unbundled
4 network elements, spreading the originally approved pool of shared costs over the
5 new (larger) pool of direct costs. Of course, a change in the shared cost factor
6 would lead to a change in the price of all unbundled network elements, undoing
7 the pricing stability that Mr. Smallwood asserts to be so important.

8 **31. Q. AT PAGE 17 OF HER REBUTTAL TESTIMONY, MS. SCHLACKMAN**
9 **COMPLAINS THAT AMERITECH-IL WOULD BE SIGNIFICANTLY**
10 **INCONVENIENCED TO HAVE TO DEVELOP NEW COSTING AND**
11 **PRICING FOR A SHELF-AT-A-TIME OPTION. IS THAT ASSERTION**
12 **REASONABLE?**

13 A. No. Line- and shelf-at-a-time arrangements require the same basic cost
14 components, *i.e.*, installing a shelf of splitters, placing tie cables and placing
15 jumpers. Hence, Ameritech-IL could reuse the data it has already developed to
16 state the cost and price for shelf-at-a-time arrangements. The prices that I
17 proposed in my direct testimony are also already in a format that work for either
18 arrangement.

19 **32. Q. PLEASE SUMMARIZE YOUR RESPONSE TO AMERITECH-IL'S**
20 **CLAIMS CONCERNING SPLITTER COSTS.**

21 A. Ameritech-IL continues to assert that the Commission should approve the actual
22 costs that it will incur to place splitters in the central office locations that
23 Ameritech-IL unilaterally chooses. Whatever the merits of Ameritech-IL's

1 position concerning its right to control splitter placement, there can be no question
2 that the *pricing* of splitters and splitter connections should reflect efficient
3 practices, not the actual practices that Ameritech-IL chooses to employ.²¹ Any
4 other position would be an invitation to Ameritech-IL to impose unnecessary
5 costs on its competitors.

6 **IV. CONTRARY TO THE CLAIMS OF MS. SCHLACKMAN AND MR.**
7 **SMALLWOOD, THE PRICES THAT AMERITECH-IL PROPOSES TO**
8 **CHARGE COMPETITORS FOR “CONDITIONING” WOULD**
9 **OVERRECOVER FORWARD-LOOKING ECONOMIC COST.**

10 **33. Q. MR. SMALLWOOD’S REBUTTAL TESTIMONY REITERATES HIS**
11 **POSITION THAT THE FCC HAS AUTHORIZED INCUMBENTS TO**
12 **IMPOSE NONRECURRING CHARGES FOR LOOP “CONDITIONING.”**
13 **HAS HE PROVIDED ANY NEW INFORMATION THAT CHANGES**
14 **YOUR POSITION ON THIS POINT?**

15 A. No. Mr. Smallwood continues to rely on FCC statements that, in concept, hold
16 out the possibility of nonrecurring “conditioning” charges, but never comes to
17 grips with the FCC’s pricing rules. Those pricing rules limit the sum of the
18 recurring and nonrecurring costs for an unbundled network elements (in this case,
19 an unbundled “conditioned” loop) to the total forward-looking cost of that
20 element. As I have shown in my direct testimony, Ameritech-IL’s proposed

²¹ Thus, I must respectfully disagree with Staff witness Mr. Koch, who premises his support for Ameritech-IL’s splitter costs on the notion that Ameritech-IL is entitled to recover its actual costs. *See Koch Rebuttal*, at 11.

1 “conditioning” charges would allow the company to recover far more than that
2 forward-looking cost.²²

3 **34. Q. IN REBUTTING MR. RIOLO, MS. SCHLACKMAN MAKES NUMEROUS**
4 **ASSERTIONS ABOUT AMERITECH-IL’S CURRENT OUTSIDE PLANT**
5 **PRACTICES (E.G., THAT AMERITECH-IL STILL DEPLOYS LOAD**
6 **COILS AND BRIDGED TAP) AND ABOUT ITS NETWORK (E.G., THAT**
7 **ONLY 13.7% OF LINES ARE SERVED VIA DIGITAL LOOP CARRIER**
8 **AND ARE, THEREFORE, DESIGNED TO CSA STANDARDS). ARE MS.**
9 **SCHLACKMAN’S CONCLUSIONS BASED ON THAT DISCUSSION**
10 **CONSISTENT WITH AN ECONOMIC ANALYSIS OF LONG-RUN**
11 **COSTS?**

12 A. No. The points that Ms. Schlackman raises merely continue Ameritech-IL’s
13 practice of improperly mixing embedded and forward-looking assumptions to
14 produce analysis of different costs. I explained in my direct testimony why such
15 an approach cannot result in a reasonable estimate of forward-looking, long-run
16 economic costs. In the context of Ameritech-IL’s presentation in the proceeding,
17 this mixing and matching of costing approaches supports proposed loop
18 “conditioning” prices that are high enough to impede competitive entry. Since
19 my direct testimony, at least one other state regulatory agency has rejected this
20 approach to loop “conditioning” cost analysis:

21 It would be inappropriate and inconsistent for the Department to
22 allow Verizon to base its loop rates on the costs of a fiber feeder,

²² For similar reasons, I disagree with Staff witness Mr. Koch’s conclusion that the FCC has authorized incumbents such as Ameritech-IL to recover its actual nonrecurring “conditioning” costs. The FCC has explicitly limited the recovery of any “conditioning” costs to forward-looking economic cost, not actual cost.

1 which may be greater than the costs of copper feeder in that
2 context, while it bases its line sharing rates on the costs of a copper
3 feeder, which are greater than the costs of fiber in the context of
4 line sharing.²³

5 **35. Q. ARE MS. SCHLACKMAN'S CONTENTIONS ABOUT THE**
6 **AMERITECH-IL NETWORK CONSISTENT WITH THE NETWORK**
7 **ASSUMPTIONS THAT AMERITECH-IL USED IN THE "TELRIC"**
8 **UNBUNDLED ELEMENT RECURRING COSTS THAT IT SUBMITTED**
9 **TO THIS COMMISSION?**

10 A. No. As I noted above, Ms. Schlackman's discussion is based on some
11 (undefined) network guidelines in which plant would continue to be designed
12 with load coils and bridged tap in some circumstance (again the specific
13 circumstance and frequency of such configurations are not defined by Ms.
14 Schlackman). The modeling standard that Ms. Schlackman now appears to
15 advocate to support high "conditioning" costs contrasts sharply with the testimony
16 in Docket No. 99-0593 of multiple Ameritech-IL witnesses who confirmed that
17 the Ameritech-IL recurring unbundled loop cost studies do not include the load
18 coils and bridged tap Ms. Schlackman is posing in her testimony in this docket.
19 Hence, without saying so directly, Ms. Schlackman is asking the Commission to
20 adopt a different forward-looking network design than Ameritech-IL assumed in
21 its recurring unbundled element cost analysis.²⁴

²³ Massachusetts Department of Telecommunications and Energy, *Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in M.D.T.E. No. 17, filed with the Department by Verizon New England, Inc. d/b/a Verizon Massachusetts, on May 5 and June 14, 2000, to become effective October 2, 2000*, M.D.T.E. 98-57–Phase III, (Sept. 28, 2000), at 111.

²⁴ See Docket No. 99-0593, Ameritech-IL Direct, Suthers at 31, Florence at 9.

1 **36. Q. ARE MS. SCHLACKMAN’S ASSERTIONS THAT IT IS NOT**
2 **PRACTICAL OR CONSISTENT WITH AMERITECH-IL PRACTICES**
3 **TO CONDITION MULTIPLE SPARE LOOPS AT THE TIME OF A**
4 **DISPATCH TO CONDITION AN INITIAL LOOP CONSISTENT WITH**
5 **AMERITECH’S OWN ENGINEERING METHODS AND PROCEDURES?**

6 A. No. Ameritech-IL’s engineering methods suggest that it has performed, and is
7 continuing to perform, “conditioning” activities such as deloading loops routinely
8 *** **AMERITECH-IL CONFIDENTIAL**

9
10
11
12
13 **END CONFIDENTIAL *****²⁵ Thus, Ameritech-IL’s own methods directly
14 contradict the main thrust of Ms. Schlackman’s testimony concerning the
15 “conditioning” of multiple pairs. Indeed, Ms. Schlackman’s claims ***
16 **AMERITECH-IL CONFIDENTIAL**

²⁵ ISDN Methods, at 9.

1
2 **END CONFIDENTIAL *****

3 **37. Q. ARE MS. SCHLACKMAN'S CONTENTIONS ABOUT THE**
4 **AMERITECH-IL NETWORK CONSISTENT WITH SBC'S OWN**
5 **FORWARD-LOOKING NETWORK ARCHITECTURE AS REFLECTED**
6 **IN ITS PROJECT PRONTO PLANS?**

7 A. No. The assumptions in Ms. Schlackman's rebuttal testimony are not consistent
8 with the Project Pronto network architecture, which SBC has announced it will
9 implement within the next three years. As Ms. Schlackman herself recently
10 stated: "If the customer is served on the Pronto architecture, then it's a given that
11 the loop will qualify [for DSL service]."²⁶ It is not totally surprising, however,
12 that Ms. Schlackman would not consider the overall effect of the Project Pronto
13 design on loop "conditioning," as she has recently acknowledged that she has not
14 reviewed the Project Pronto business case and that she is "not familiar with their
15 [SBC's] Project Pronto deployment."²⁷

16 **V. CONTRARY TO MR. LUBE'S ARGUMENTS, THE COMMISSION**
17 **SHOULD REAFFIRM ITS POLICY DECISION TO REQUIRE**
18 **AMERITECH-IL TO OFFER UNAFFILIATED COMPETITORS A COST-**
19 **BASED LINE-SHARING ALTERNATIVE OVER THE NEW PROJECT**
20 **PRONTO ARCHITECTURE.**

21 **38. Q. AT PAGES 3 TO 4 OF HIS REBUTTAL TESTIMONY, MR. LUBE**
22 **APPARENTLY INTENDS TO SUPPORT AMERITECH-IL'S ASSERTION**
23 **THAT "NO LINE SHARING (OR EVEN FIBER SHARING) ... CAN**

²⁶ Deposition of Betty Schlackman, Public Utilities Commission of Ohio, Case No. 96-922-TP-UNC, September 7, 2000, Tr. 112.

1 **TAKE PLACE IN THE PROJECT PRONTO NGDLC SYSTEM.” IS MR.**
2 **LUBE’S ARGUMENT RELEVANT TO THE POLICY DECISIONS THAT**
3 **THIS COMMISSION MUST MAKE RELATIVE TO THE COMPETITIVE**
4 **NECESSITY FOR REQUIRING AMERITECH-IL TO OFFER LINE**
5 **SHARING OVER FIBER-FED LOOPS?**

6 A. No. Mr. Lube’s own testimony shows that Ameritech-IL’s attempt to use
7 technical aspects of the particular technology it has chosen for its Project Pronto
8 to avoid unbundling obligation is a red herring. As Mr. Lube admits:

9 Ameritech Illinois certainly understands and agrees that it is
10 technically feasible to place (i.e., multiplex) both voice signals and
11 data signals onto the same optical signal for transport over a single
12 fiber. However, contrary to Ms. Murray’s testimony, it is
13 technically impossible to combine voice and data signals onto the
14 same fibers using the NGDLC system deployed with Project
15 Pronto.

16 Hence, even Ameritech-IL acknowledges that end users will receive both voice
17 and DSL service over the same copper pair that terminates at their premises,
18 regardless of whether that loop has fiber or copper feeder. Thus, from the
19 customer’s perspective, voice and DSL services will be “sharing” the same line.

20 Mr. Lube also implicitly admits that the fact that voice and data signals
21 will traverse different physical paths in the fiber portion of the Project Pronto loop
22 architecture is a matter of design, but not engineering necessity.

23 Given these facts, the Commission has already rightly found that:

24 If this Commission does not require [SWBT affiliate] Ameritech to
25 provide line-shared loops over Project Pronto DLC when
26 technically feasible, the deployment of competitive advanced

Continued...

²⁷ *Id.*, Tr. 113-114; 134-135; 144-147; 152

1 services, especially to residential and small business customers,
2 would likely be diminished since Ameritech would retain
3 monopoly power over a bottleneck facility. This Commission will
4 not allow Project Pronto to be used as a roadblock to competition
5 for advanced services in Illinois. Therefore, the Commission
6 orders Ameritech to provide line sharing to Covad and Rhythms
7 over Project Pronto DLC.²⁸

8 The Commission further found that:

9 Additionally, Ameritech plans to provide line sharing over Project
10 Pronto DLC to its advanced service affiliate. Not only does this
11 support the technical feasibility of provisioning line sharing over
12 NGDLC, but raises a question of Ameritech's treatment of
13 competitive LECs relative to its affiliate.²⁹

14 I concur with the Commission's finding that SBC/Ameritech's discretionary
15 decision to physically separate the voice and data signals over a portion of the
16 Project Pronto loop architecture does not justify discrimination against
17 unaffiliated competitors.

18 **39. Q. IS THERE AN ADDITIONAL REASON THAT AMERITECH-IL'S**
19 **ATTEMPT TO ASSERT THAT LINE SHARING DOES NOT OCCUR**
20 **OVER PROJECT PRONTO IS IRRELEVANT?**

21 A. Yes. It is curious that Ameritech-IL is still (apparently) arguing that line sharing
22 should not be priced on an unbundled element basis over its Project Pronto
23 architecture. The FCC has explicitly deferred to the state the issue of setting cost-
24 based UNE prices for unbundled access to the Project Pronto architecture based
25 on SBC's own supposed voluntary offer.³⁰

²⁸ Arbitration Decision, Dockets 00-0312 and 00-0313, August 17, 2000, at 31.

²⁹ *Id.*

³⁰ Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules, CC Docket 98-141, *Second Memorandum Opinion and Order*, Released September 8, 2000 ("SBC Waiver Order"), ¶25.

1 **40. Q. AT PAGE 4 OF HIS REBUTTAL TESTIMONY, MR. LUBE ALSO**
2 **ASSERTS THAT THE FCC *LINE SHARING ORDER* DOES NOT**
3 **REQUIRE LINE SHARING OVER FIBER. IS HE CORRECT?**

4 A. No. Mr. Lube can only arrive at his position by ignoring the final rules that the
5 FCC implemented as a result of the *Line Sharing Order*. Specifically, the FCC
6 has amended 47 C.F.R. 51.319(h)(6) to require incumbents to provide “unbundled
7 access to the high frequency portion of the loop at the remote terminal as well as
8 the central office” for loops that include DLC.³¹ This requirement clarifies the
9 FCC’s intent for its line-sharing requirement to apply to both fiber-fed and
10 copper-fed loops and to apply for fiber-fed loops at both the remote terminal and
11 the central office. Thus, there is no ambiguity about the need to adopt line-
12 sharing prices for fiber-fed loops.

13 **41. Q. STARTING AT PAGE 13 OF HIS REBUTTAL TESTIMONY, MR. LUBE**
14 **PROVIDES A LIST OF OPTIONS THAT COMPETITORS SUPPOSEDLY**
15 **HAVE THAT WOULD SUPPOSEDLY BE AVAILABLE EVEN IF**
16 **AMERITECH-IL DID NOT MAKE ITS PROJECT PRONTO NETWORK**
17 **AVAILABLE ON AN UNBUNDLED BASIS. IS MR. LUBE’S**
18 **ARGUMENT COMPELLING?**

19 A. No. I note again that Ameritech-IL’s persistence in making such arguments
20 seems to conflict with SBC’s promises to the FCC. The FCC granted its merger

³¹ FCC Revision of the Commission’s Rules Specifying the Portions of the Nation’s Local Telephone Networks that Incumbent Local Telephone Companies Must Make Available to Competitors, Federal Register, April 11, 2000 (Volume 65, Number 70).

1 condition waivers relative to Project Pronto based, in part, on SBC's supposed
2 commitment to make Project Pronto available on an unbundled basis.

3 The Commission need only examine SBC's own business plans to
4 determine if SBC itself considers all of the various supposed alternatives listed by
5 Mr. Lube as viable possibilities for its own DSL services. If the SBC cannot
6 demonstrate that its own DSL provider affiliate considers, for example,
7 continuing to provide services limited to all-copper facilities when other providers
8 have cost-based prices available for fiber-fed options or collocating its own
9 DSLAMs at remote terminals as competitively viable alternative for its own
10 operations, then Commission should very seriously doubt the practical value of
11 Mr. Lube's supposed alternatives.

12 **42. Q. MR. LUBE ASSERTS THAT THE PROJECT PRONTO ARCHITECTURE**
13 **BECOMES A PACKET SWITCHING ARRANGEMENT AND THAT THE**
14 **SBC DEPLOYMENT OF PROJECT PRONTO WILL NOT TRIGGER**
15 **THE FCC CRITERIA FOR UNBUNDLING PACKET SWITCHING. IS**
16 **MR. LUBE'S ARGUMENT RELEVANT TO THE CURRENT ISSUE**
17 **BEFORE THIS COMMISSION?**

18 A. No. Again, it appears that Mr. Lube is somehow attempting to argue the
19 Commission into ignoring the commitments that SBC made to provide unbundled
20 access to its Project Pronto architecture, which the FCC relied on to grant SBC's
21 request for a waiver of its merger conditions. The Commission should reject such
22 attempts to back out of SBC's recent commitments out of hand. The result of
23 following Mr. Lube's logic is that only Ameritech-IL and its SBC affiliates would

1 have cost-based access to the loops served by the modern Project Pronto network
2 architecture. That result would not support a healthy competitive market in
3 Illinois.

4 **VI. CONTRARY TO MR. SMALLWOOD'S POSITION, THE COMMISSION**
5 **SHOULD NOT PERMIT AMERITECH-IL TO CHARGE FOR**
6 **UPGRADES TO ITS OSS TO FACILITATE LINE SHARING.**

7 **43. Q. MR. SMALLWOOD PRESENTS NEW EVIDENCE CONCERNING THE**
8 **LEVEL OF OSS UPGRADE COSTS THAT AMERITECH-IL HAS**
9 **INCURRED TO PROVIDE LINE SHARING AND THE DEMAND**
10 **FORECAST USED IN CALCULATING ITS PROPOSED MONTHLY**
11 **CHARGE. DOES THIS EVIDENCE CHANGE YOUR OPINION**
12 **CONCERNING THE PROPRIETY OF AMERITECH-IL'S PROPOSED**
13 **MONTHLY OSS MODIFICATION CHARGE?**

14 A. No. The single page that Ameritech-IL has provided from a Telcordia contract
15 does not give parties or the Commission sufficient information to determine
16 precisely what functionality is included in the Telcordia package, much less to
17 ascertain what caused SBC to incur the associated cost. This information is
18 simply too little, too late to support Ameritech-IL's claim for cost recovery.

19 Similarly, the new material that Mr. Smallwood provides to substantiate
20 Ameritech-IL's demand forecast does show the source of that forecast, but does
21 not explain the discrepancy between that source and the demand figures that SBC
22 uses itself in reporting to investors. Again, the additional backup material is too
23 little, too late to answer the outstanding questions concerning Ameritech-IL's cost
24 estimates.

1 **44. Q. IS THERE ANY EVIDENCE THAT SBC INCURRED THE SUPPOSED**
2 **LINE-SHARING-RELATED OSS INVESTMENT ON ITS OWN BEHALF,**
3 **AND NOT AS A RESULT OF THE MANDATE TO OFFER LINE**
4 **SHARING TO UNAFFILIATED COMPETITORS?**

5 A. Yes. In response to @Link Networks, Inc. et al. 3rd Set of Data Requests, Request
6 No. 57 in Ohio Public Utilities Commission Case No. 96-922-TP-UNC,
7 Ameritech-IL's sister company Ameritech Ohio admits that "all of the work effort
8 by Telcordia would be required in order for Ameritech Ohio to supply services to
9 AADS," its own affiliate. Hence, as SBC and Ameritech made the commitment
10 to create a separate advanced services affiliate to gain approval of their merger,
11 this Commission should treat Ameritech-IL's entire reported OSS upgrade cost as
12 a merger implementation cost and disallow any charge to competitors to recover
13 this cost.

14 **45. Q. DOES THAT CONCLUDE YOUR SURREBUTTAL TESTIMONY AT**
15 **THIS TIME?**

16 A. Yes, it does.